



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA  
Chief Executive Officer

April 11, 2014

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From: William T Fujioka  
Chief Executive Officer

## **MOTION TO INSTRUCT THE CHIEF EXECUTIVE OFFICER AND THE SACRAMENTO ADVOCATES TO OPPOSE SB 925 (WRIGHT) AND AB 2541 (HALL) (REVISED ITEM NO. 3, AGENDA OF APRIL 15, 2014)**

Revised Item No. 3 on the April 15, 2014 Agenda is a motion by Supervisor Knabe to instruct the Chief Executive Officer and the Sacramento advocates to oppose SB 925 by Senator Roderick Wright and AB 2541 by Assembly Member Isadore Hall, which would require the Alameda Corridor Transportation Authority to contract with a third-party collection agency to collect user fees.

### **Background**

Approximately 40 percent of all goods transported by ocean to the United States enter the country through the Ports of Long Beach and Los Angeles. The ports are the two busiest container ports in the country and together handled more than \$300 billion in cargo in 2011. The Alameda Corridor is rail cargo expressway, which consolidates three historic rail access routes from the ports to rail yards, 20 miles northeast of downtown Los Angeles, primarily along and adjacent to Alameda Street. Operation of the Alameda Corridor began in 2002 and includes a triple-track bridge over the Los Angeles River and a 10-mile trench which allows trains to move below surface grade, eliminating approximately 200 grade crossings. With the establishment of the Alameda Corridor, transit time between docks and inland rail yards decreased on average from two hours to under one hour.

Existing law authorizes the Alameda Corridor Transportation Authority (ACTA), a joint powers agency formed by the cities of Long Beach and Los Angeles, to issue revenue bonds for the purpose of designing and constructing the Alameda Corridor, with debt service on the bonds to be paid from various sources, including railroad or truck-use fees. According to the ACTA, the \$2.4 billion Alameda Corridor was funded through a blend of public and private sources. Revenues from user fees, which the railroads agreed to pay, are used to retire nearly \$2 billion in bond debt.

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According to the Alameda Corridor Transportation Authority, the collection of these fees is governed under existing long-term agreements, which have been in place since 1998 with the Port of Long Beach, the Port of Los Angeles, Union Pacific Railroad Company, BNSF Railway Company and the ACTA, and by various revenue bond indenture documents. These agreements are based on existing State laws and project-specific legislation which established the current fee collection system and authorized the issuance of revenue bonds to fund the Alameda Corridor project. The agreements specify, among other things, the fees are to be collected directly from the railroads that operate on the Alameda Corridor. The agreement also provides bondholders with the ability to review the credit of the railroads and the ports with respect to revenue shortfalls for repayment of the debt.

#### **SB 925 (Wright) and AB 2541 (Hall)**

SB 925 and AB 2541 are identical measures which would alter the Alameda Corridor fee collection structure by requiring the ACTA contract with an independent third-party collection agency to collect user fees. The bill would require the ACTA to adopt and publish a tariff that would require all users to pay the use fee to the independent third-party collection agency prior to cargo entering the Alameda Corridor system. Under the bills, users would be defined as a person, company, or other entity that is named as the shipper or consignee on the ocean carrier bill of lading for export or import cargo, or various other persons or entities. The bill would also establish provisions for enforcement in case of delinquency, including refusal of service and a lien on cargo, and would also require the tariff to include a prohibition against payment, waiver, advancement, or absorption of the use fee by any ocean common carrier or railroad operator on behalf of a user.

The author of AB 2541 states that while the railroads are paying the user fees to the ACTA, they are in turn passing these charges on to their customers, notably ocean carriers that arrange for rail carriage of international shipping containers along the corridor. The author further states that the ocean carriers are paying a disproportionate share of the costs for the Alameda Corridor because they are unable to pay the user fee along to their customers, the cargo owners whose cargo is carried in the containers and who, under the original ACTA funding concept, were expected to pass it onto their retail customers inside and outside of California. This includes over \$800 million in ACTA fees passed onto the ocean carriers through the railroads since the opening of the Alameda Corridor in 2002, including \$56 million in 2012 alone (which is the last year for which data is available).

On April 10, 2014, the Governing Board of the ACTA held a special meeting at which it voted 5 to 0 to oppose SB 925 and AB 2541. Specifically, the Governing Board indicates that fee structure proposed under these bills would violate Federal and State law. Further, the bills proposed to collect fees from thousands of cargo owners/interests, to the extent this can be determined, as opposed to collecting fees directly from just two railroads pursuant to existing, long-standing agreements. The Governing Board also notes that the proposed legislation would result in an incalculable increase in per-unit fees to cover its administrative complexity and would likely result in significant payment delinquencies. Finally, the Governing Board reports that the substitute fee structure would present risks to the ports and to bond insurers who are responsible for covering shortfalls in debt service on revenue bonds.

AB 2541 is sponsored by the Ocean Carrier Equipment Management Association and supported by: Cosco Container Lines Americas, Inc.; CMA CGM, CSAV Agency; Evergreen Shipping Agency Corporation; Hamburg Sud; HMM (Hyundai America Shipping Agency, Inc.); Hanjin Shipping America, LLC.; Hapag-Lloyd; "K" Line America; Inc.; Maersk Line; NYK Line; and Yang Ming Marine Transport Corp.

AB 2541 is scheduled for a hearing in the Assembly Transportation Committee on April 28, 2014.

There is no registered support or opposition on file to SB 925. This bill has not been scheduled for a hearing before a policy committee.

#### **Existing Board Policy**

There is no existing Board policy to oppose legislation which would require the Alameda Corridor Transportation Authority to contract with a third-party collection agency to collect user fees; therefore, **opposition to SB 925 and AB 2541 is a matter for Board policy determination.**

WTF:RA  
MR:VE:gl

c: Executive Office, Board of Supervisors  
County Counsel